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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,164	05/09/2001	Hirokazu Kondo	Q63442	2516

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EXAMINER

THOMPSON, JAMES A

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/851,164

Applicant(s)

KONDO, HIROKAZU

Examiner

James A. Thompson

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 14 November 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): prior art rejections of claims 13-17.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12 and 18-49.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s): 5/15/05
13. ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 15 May 2005 was filed after the mailing date of the final Office action on 13 May 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Amendment

2. Since the proposed amendments to the claim merely cancel claims 13-17, the proposed amendments to the claims are entered.

Response to Arguments

3. Applicant's arguments filed 14 November 2005 have been fully considered but they are not persuasive.

Regarding page 13, line 15 to page 14, line 22: Applicant argues that figures 6-8 of Liang (US Patent 5,579,031) do not represent the same apparatus. Examiner responds that figures 6-8 of Liang clearly do represent the same apparatus, as a cursory reading of the reference demonstrates. In the previous office action, dated 18 April 2005 and mailed 13 May 2005, Examiner cited column 4, lines 27-35 of Liang to support this contention [see page 6, lines 4-8 of said previous office action]. The cited pages clearly states "FIG. 6 is a schematic representation of an arrangement in accordance with this invention in which two matched images are printed using two printing devices. FIG. 7 is a schematic representation showing the arrangement used for obtaining data for generating LUTs used in modeling the two printing devices of FIG. 6. FIG. 8 is a schematic represent-

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ation of the process for obtaining the transform LUT used in the adaptor in the arrangement shown in FIG. 6." In other words, Figures 6, 7 and 8 of Liang each show particular aspects of the system by which the YMCK color space of two printers is matched.

Applicant further alleges that Examiner "jump[s] from one section of the column to another in a disjointed manner that disregards the disclosed operation of the Liang device."

Examiner responds that Applicant has not demonstrated in any way how Applicant believe this allegation to be true. Nor is the allegation particularly relevant since Liang or any other reference is not likely to either directly quote the claims recited by Applicant or explain the invention in the same manner Applicant does. In order to demonstrate that Liang does anticipate claim 1, Examiner must show from the various portions of the Liang how Liang teaches claim 1.

Regarding page 15, lines 1-13: *Applicant argues* that Examiner is inconsistent in the designation of the first colorimetric data. *Examiner responds* that Examiner has done no such thing and respectfully request that Applicant specifically point out where in said previous office action Applicant believes this to be done. Examiner has consistently shown that the first colorimetric data is the YMCK data of the first printer and the second colorimetric data is the YMCK data of the second color printer (denoted Y'M'C'K'). The CIELab values mentioned by Applicant are the intermediate values that Liang uses in the overall conversion process. The system of Liang converts the device-dependent YMCK data of the first printer into a device-independent color space, namely the CIELab color space, and then converts the intermediate device-independent CIELab data to the device-dependent YMCK data of the second

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color printer (column 10, lines 34-40 and column 11, lines 48-58 of Liang) [see page 6, line 23 to page 7, line 2 of said previous office action].

Regarding page 15, lines 14-20: *Applicant alleges* that Examiner (1) double counts the discussion at column 11, lines 4-9 of Liang to be the first conversion step and also the subsequent color correcting step; and (2) that Examiner incorrectly recites the claims language which refers to conversion of the first colorimetric data (Lab) to second colorimetric data, and not just a general color conversion (YMCK to Lab).

Examiner responds that, with respect to (1), the passage of column 11, lines 4-9 of Liang fully teaches both steps mentioned by Applicant. There is no legal doctrine that states that a certain amount of text is required in a prior art reference for teaching each recited limitation of a claim. Again, Applicant seems to believe that Liang must somehow use the exact same language and manner of expression as used in the recited claims, which is clearly an erroneous notion. While Liang must teach each and every limitation of claim 1, an exact quote of the recited claim 1 is not required to be present in Liang. With respect to (2), Examiner has already demonstrated above that the first colorimetric space taught by Liang is the YMCK color space of the first printer, and not the CIELab space which is used as an intermediate set of values. Since the teachings of Liang are done in the context of the specific system shown in figures 6-8, it should be abundantly clear that Examiner is referring to conversion of the first colorimetric data (YMCK of first printer) to the second colorimetric data (YMCK of second printer) and not just to a general color conversion.

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Furthermore, Applicant has not pointed out where the alleged incorrect recitation is located in said previous office action, nor has Examiner located such an incorrect recitation. In fact, said previous office action specifically states that "[s]aid color correcting means converts said first colorimetric data to second colorimetric data" [see page 6, lines 26-30 of Liang] [emphasis added]. Furthermore, even if Examiner had written "a first colorimetric data", it would still be abundantly clear from the context which first colorimetric data was being addressed and that the specific colorimetric conversion from the first colorimetric data to second colorimetric data of the system of figures 6-8 of Liang is being addressed. With respect, Applicant allegations of patentability are based on a potential accidental substitution of "the" or "said" for "a" - which does not even occur in this case - while ignoring the clear meaning and context of the rejections presented.

Regarding page 15, line 21 to page 16, line 4: As demonstrated clearly above, figures 6-8 of Liang are different representations of the same system.

Regarding page 16, lines 5-10: As clearly set forth in Liang, figure 7(134) of Liang is indeed a proof. The cited portion of Liang states that the "13,824 patches resulting from the different color value combinations above are printed by both printers 112 and 114 to provide two sets 132 and 134 of 13,824 patches each" (column 10, lines 64-67 of Liang) [see page 7, lines 3-14 of said previous office action]. A proof is a trial printout by which a user can tell if the image printed therein is proper and acceptable. The color patches are printed on a physical medium and are used to determine if the two printers match. Therefore, the printout is a proof. Simply calling the

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printout a "color chart" does not change this. Furthermore, the printout is based on the YMCK colors of the first printer and the YMCK colors of the second printer. Neither printer prints CIELab colors since the printers rely upon YMCK inks. Since Applicant's allegations are thus easily demonstrated to be false, Examiner's rejection does not contain "clear errors" as Applicant alleges.

Regarding page 16, lines 11-14: Since claim 1 has been clearly demonstrated by Examiner to be anticipated by Liang, claims 2-12, 18-23 and 29-48 cannot therefore be considered patentable based on their dependency or analogous features.

Regarding page 16, line 15 to page 17, line 3: Applicant argues that Examiner is speculating with regard to the correction ratios.

Examiner responds that it has already been demonstrated that LUTs are used for converting from the first YMCK colorimetric space to the second YMCK colorimetric space. The CIELab color spaces are intermediate color spaces used by the printers for the process of conversion since it is more accurate to convert between device independent color spaces. A look-up table (LUT) is simply a transfer function between the CIELab space for the first printer and the CIELab space for the second printer. In other words, a value in one space directly corresponds to a value in another space. There are no additive or subtractive operations involved. The only difference between Liang and Applicant's claimed invention is the manner in which the variables are represented. There is no substantive difference between Liang and the claimed invention. To give an example, if in the first space a value for L of 70 corresponds to a value for L of 50 in the second colorimetric space, the

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look-up table simply converts the value of 70 to the value of 50. Thus, a ratio of 70-to-50 used. Again, Applicant is merely using a different mathematical *representation* of the conversion data, which is not something that would patentably distinguish the present claims over Liang. Nothing of actual substance is different.

Regarding page 17, lines 4-16: As discussed above, the colorimetric conversion is performed for two printers, each operating in the YMCK color space. The CIELab color space is a device-independent color space that is used in the conversion. So, while the overall conversion is for two sets of colorimetric data do comprise two device-independent color spaces that are used for the conversion [see pages 14-15 of said previous office action].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



23 November 2005

James A. Thompson
Examiner
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THOMAS D. WAT